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OFFICE OF PETITIONS

In re Application of
Joseph J. Kirkland et al
Application No. 10/694918
Filed: October 28, 2003
Attorney Docket No. 11047.03

DECISION
ON PETITION
37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed January 27, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (1) a proper reply to the office action mailed on May 17, 2004 and (4) a proper Terminal Disclaimer in accordance to 37 CFR 1.321(c).

There is no indication that the person signing the Terminal Disclaimer to the Double Patenting Rejection was ever given a power of attorney or authorization of agent to prosecute the above identified application. See 37 CFR 1.321(b) and (c).

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive further correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

An associate power of attorney or authorization from an unregistered person will not be recognized or accepted. See 37 CFR 1.34(b).

The instant application was originally filed with an Application Data Sheet. As set forth in 37 CFR 1.76(d)(2), the information contained in the Application Data Sheet directed to the Correspondence and Representative information will govern.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By hand: Customer Service Window
 Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

The centralized facsimile number is (703) 872-9306.

Telephone inquiries concerning this decision should be directed to Gene Kim at (571) 272-6052 or the undersigned at (571)272-3217.

A handwritten signature in black ink, appearing to read "Brian Hearn", with a stylized flourish at the end.

Brian Hearn

Petitions Examiner

Office of Petitions

Office of the Deputy Commissioner
for Patent Examination Policy